

Remarks**Preliminary Remarks**

Claims 3, 4, 8, 9, 16-18, 22 and 23 stand withdrawn from the present application based on the Patent Office position that these claims are drawn to a nonelected species with no allowable generic or linking claim present. The Applicants submit that, based on the arguments below, the generic claim, claim 1, is in condition for allowance. As detailed in MPEP §809.04, Applicants submit that upon allowance of claim 1, the withdrawn claims should be rejoined and examined for allowance as they represent claims drawn to species that depend from the linking genus claim and include all of its limitations. Claim 1 is directed to an implantable medical device fabricated of a plurality of laminated layers, as are all claims that depend therefrom. In addition, claim 22 has been amended to depend from claim 1, thereby linking the species of claim 22 to the genus represented in claim 1. Accordingly, the Applicants respectfully request the reinstatement and allowance of the withdrawn claims in addition to the allowance of all pending claims.

The Applicants have rewritten claims 14, 15 and 21 in independent form as suggested by the Patent Office in their objection to these claims. The new claims 26, 27 and 28 correspond to dependent claims 14, 15 and 21, respectively. Accordingly, the Applicants submit that these new claims are in condition for allowance.

Arguments**The Rejection of Claims 1, 5, 6, 10-13, 24 and 25 under 102(e) over McGuinness (US Pat. No. 6,066,169) Should be Withdrawn**

Contrary to the position of the Patent Office, McGuinness fails to disclose all elements of the claimed invention according to pending claims 1, 5, 6, 10-13, 24 and 25 and withdrawn claims 3, 4, 8, 9, 16-18, 22 and 23. McGuinness fails to disclose an implantable medical device comprising laminated layers, let alone laminated layers forming a monolithic structure.

The Patent Office has erroneously cited McGuinness as disclosing an implantable medical device comprising a plurality of laminated layers of at least one biocompatible material. In particular, the cited passage on col. 3, ln. 10-20 and 24-25 of McGuinness does not state that laminated layers are fabricated and integrally united. In contrast, the passage states that stents are formed from a "substantially tubular body of material" and that the tubular bodies are "milled or etched to have a pattern that appears as a set of cylindrical elements, typically each of which has a sinusoidal shape, joined by connecting elements which comprise articulated arms and substantially straight connecting rods." (emphasis added). This passage confirms that which is described in the drawings, a series of rings or cylindrical elements (see Fig. 1A) that are joined by connecting elements to form a tubular structure. (Nowhere in McGuinness is there a discussion on forming a structure out of laminated layers and certainly no discussion of the laminated layers forming a monolithic structure.)

Accordingly, the Applicants respectfully submit that McGuinness fails to anticipate the pending and withdrawn claims and request the rejection in light of McGuinness be withdrawn.

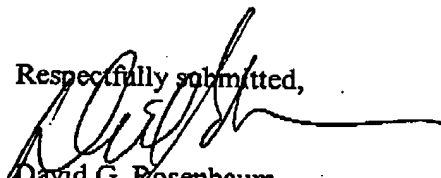
Conclusion

The Applicants submit that all pending claims, 1, 5, 6, 13-15, 19, 21, 24-28 are in condition for allowance and request the allowance of the pending claims. In addition, the Applicants request rejoinder of withdrawn claims 3, 4, 8, 9, 16-18, 22 and 23 as they are drawn to species linked by generic claim 1.

This response is timely filed, however, the Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Rosenbaum & Associates, P.C. deposit account No. 18-2000.

Should the Examiner require any further information or wish to discuss an aspect of this Response, the Examiner is encouraged to telephone the undersigned at the telephone number set forth below.

Respectfully submitted,



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